IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 4893 of 2005(G)

AGAINST THE ORDER DATED 15/01/05 IN IA.NO.1906 /2004 IN OS.196/2002 of M.C.,PARAPPANANGADI

.....

PETITIONER:

PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
D/O. KALIYAMMA, CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM, P.O. A.R.NAGAR.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.HARISH R. MENON

RESPONDENTS:

---

1. KAMAKSHI AMMA,
W/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R.NAGAR AMSOM, DESOM.

2. SUKUMARI,
D/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R. NAGAR AMSOM, DESOM.

3. JAYALAKSHMI,
D/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R. NAGAR AMSOM, DESOM.

4. P.K.SETHU,
S/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R.NAGAR AMSOM, DESOM.

5. P.K.RAJENDRAN,
S/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R.NAGAR AMSOM, DESOM.

6. M.DILEEP KUMAR,
S/O. PUTHIYAPARAMBATH KANANGAT KUNJINNI PANICKER,
A.R.NAGAR AMSOM, DESOM.

7. VELAYUDHA PANICKER,
S/O. PUTHIYAPARAMBATH KANANGAT KALI AMMA,
A.R. NAGAR AMSOM, DESOM.

8. NARAYANA PANICKER,
S/O. PUTHIYAPARAMBATH KANANGAT KALI AMMA,
A.R. NAGAR AMSOM, DESOM.

9. PADMAVATHY AMMA,
D/O.KOLANGARAPURATH PARVATHY AMMA,
A.R. NAGAR AMSOM, DESOM.

10. SUBADRA AMMA, D/O. PADMAVATHY AMMA,
KOLANGARAPURATH, A.R. NAGAR AMSOM, DESOM.

11. SOUDAMINI, D/O. PADMAVATHY AMMA,
KOLANGARAPURATH, A.R. NAGAR AMSOM, DESOM.

12. SIVADASAN, S/O. PADMAVATHY AMMA,
KOLANGARAPURATH, A.R. NAGAR AMSOM, DESOM.

13. SARASWATHY, D/O. PADMAVATHY AMMA,
KOLANGARAAPURATH, A.R.NAGAR AMSOM, DESOM.

14. PADMAVATHY,
D/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

15. PRABHAKARAN,
S/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

16. MALATHY AMMA,
D/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

17. BABY RUGMINI,
D/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

18. GOPALAKRISHNAN,
S/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

19. SASIKUMAR,
S/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R. NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

20. VYJAYANTHI RANI,
D/O.PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R.NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

21. JYOTHI,
D/O. PUTHIYA PARAMBATH KANANGAT CHEERU AMMA,
CHANDAPURAYA, A.R.NAGAR AMSOM & DESOM,
P.O. A.R.NAGAR.

22. SYLAJA, D/O. PADMAVATHY,
-DO- -DO-.

23. VIDHUBALA, D/O. PADMAVATHY,
-DO- - DO-.

24. PRAJITHA, D/O. SUKUMARAN,
PUTHIYA PARAMBATH KANANGAT, A.R.NAGAR AMSOM &
DESOM, P.O. A.R.NAGAR.

25. ROOPESH, S/O. SUKUMARAN IN
-DO- -DO-.

26. RAJI, D/O. SUKUMARAN IN
-DO- -DO-.

27. AMBUJAKSHI, W/O. SUKUMARAN IN
-DO- -DO-.

R14, R16 TO R18, R20 T0 R27 BY ADV. SRI.R.SURAJ KUMAR
R1 TO R3 BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.4893 OF 2005

.....

DATED THIS THE 5TH JUNE, 2007

J U D G M E N T

I find force in the submission of Sri.K.P.Sudheer that respondents 14 to 27 were plaintiffs 2 to 15 along with the petitioner in the court below and it is not necessary that notice should be served on them. The main contest was between the plaintiffs and respondents 1 to 3 for whom Mr.Sudheer appears. Service is yet to be completed on respondents 6, 7, 8, 11 and 12. Mr.Sudheer submits that respondents 6, 7, 8, 11 and 12 had not filed any objection to the application submitted by the plaintiffs for remitting the commissioner's report which has resulted in the impugned order Ext.P4. Objections were filed only by respondents 1 to 3. Under these circumstances, I am of the view that it is not necessary to serve respondents 6, 7, 8, 11 and 12 with notice of this Writ Petition.

2. Heard both sides.

3. One of the grounds raised in the Memorandum of Writ Petition is that Ext.P4 impugned order has been passed without hearing the petitioner. Even though as such I do not find any warrant for correcting Ext.P4 under the supervisory jurisdiction of this Court under Article 227 of the Constitution, in view of the submission of the

counsel for the petitioner that Ext.P4 was not preceded by a hearing of the petitioner, I set aside Ext.P4 on that ground and direct the learned Munsiff to pass fresh orders on I.A.No.1906 of 2004 after hearing the contesting parties, viz., respondents 1 to 3 and the plaintiffs, through their counsel. Fresh orders as directed above shall be issued by the learned Munsiff at the earliest and at any rate within one month of receiving copy of this judgment.

The Writ Petition is disposed of as above. No costs.

(PIUS C. KURIAKOSE, JUDGE)

tgl